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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,711	12/11/2003	Matthew Spiro	29812-CON	8628

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EXAMINER

ALIMENTI, SUSAN C

ART UNIT PAPER NUMBER

3644

DATE MAILED: 04/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/733,711	<b>Applicant(s)</b> SPIRO ET AL.	
	<b>Examiner</b> Susan C. Alimenti	<b>Art Unit</b> 3644	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 December 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 and 33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-8 is/are rejected.
- 7) ☒ Claim(s) 5 and 33 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>12/11/03</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Terminal Disclaimer*

1. The terminal disclaimer filed on 12/8/2004 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of USPN Nos. 6,662,489 and 6,655,080, has been reviewed and is accepted. The terminal disclaimer has been recorded.

### *Claim Rejections - 35 USC § 102*

2.. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-4, and 6-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Wigton et al. (US 6,145,243).

Wigton et al. (hereafter Wigton) discloses the claimed invention comprising a propane gas burner releasing hot carbon dioxide gas and moisture (Wigton, col.4, lns.38-40) through a vertically extending exhaust tube 44. An insect trap assembly comprising a catch cup/insect trap 34, a housing, defined as outlet end 36, having an inlet 32 operable to draw insects into the housing via vacuum generator 38. The insect assembly 34, 36 is laterally offset from exhaust tube 44. Further, inlet portion 54 of exhaust tube 44 is completely external of the insect trap assembly.

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Regarding claim 3 the insect trap assembly is supported from exhaust tube 44 via connection 46.

Regarding claim 7, a ground-engaging stand 12, 20, supports the entire system.

Regarding claim 8, the sidewall of housing 36, and connector 46 are considered to be heating panels.

***Allowable Subject Matter***

4. Claims 5 and 33 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

5. Applicant's arguments, see p. 4-5, filed 12/8/2004, with respect to the 35 U.S.C. § 103(a) rejection of claims 1-8 as being obvious over Wilson in view of Wigton, have been fully considered and, in combination with the present amendments to the claims, are persuasive. The obvious type rejection under 35 U.S.C. § 103(a) of Wilson in view of Wigton has been withdrawn.

6. Applicant's arguments filed 12/8/2004 directed toward the 35 U.S.C. § 102(b) rejection of claims 1-8 as being anticipated by Wigton have been fully considered but they are not persuasive. The added limitations that the "insect assembly" is "spaced offset from" the exhaust tube, and they are positioned "exteriorly of one another," (See claim 1, Amendment filed 12/9/2004) is not sufficient to overcome the above rejection. Wigton's extension 54 of exhaust

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tube 44 is offset from the insect assembly, as described above, and positioned exteriorly of said insect assembly. The rejection has been maintained and made final.

***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan C. Alimenti whose telephone number is 571-272-6897. The examiner can normally be reached on Monday-Friday, 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harvey Behrend can be reached on 571-272-6871. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SCA



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